be taken to prevent its spreading. Arrangements are already made by the Public Health Department including the cost of vaccine, cost of barricades, sheds, etc., the total expenditure comes to Rs. 9,000 for preventive measures. There is a balance of Rs. 3,000 from the amount sanctioned for plague preventive measures at Trichur and Mattancheri. Hence the additional allotment of Rs. 6,000 is necessary. If this Council will waive the technical objection, I request this grant may be sanctioned.

Mr. A. B. Salem *(Mattancheri)*: Suppose plague breaks out in Mattancheri?

Mr. T. K. Nayar *(Minister for Rural Development)*: There is no permanent imprest for Mattancheri and Trichur plague preventive measures. When there is necessity Government will come to the aid of the people of Mattancheri.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: In the note, we find barricades and sheds. May I know what these mean?

Mr. T. K. Nayar *(Minister for Rural Development)*: These are provided as a sort of preventive for cholera.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Better attention may be paid in prepairing the notes.

Demand put and carried

24. The Cochin Verumpattamdars Bill

Amendment No. 47

Mr. K. Ashtamoorthi Nambudiripad *(Landlords)*: Sir, I beg to move the following amendment: *"Add a new sub-clause (g) before the proviso: (g) That, at the end of an agricultural year, the lessor other than a charitable or religious body such as Devaswam, Mosque, Sabhayogam, or Mutt, requires the holding bonafide for his own cultivation or for that of any member of his family or tarawad or thavazhi who has a proprietary and beneficial interest therein"*. Mr. President, Sir, I find that I am compelled to move this amendment as there is among the jenmies of the State, a feeling that the exclusion of this provision from the Bill is highly injurious to their interests. By moving this amendment, I once more request the Government to reconsider this matter and include this provision in the Bill.

The absence of this provision, Sir, affects more the poorer landlords than the big jenmies. The big jenmies will have hundreds of tenants under them. So long as the tenants remain as they are, every big jenmi will be able to evict a few of them atleast if they want, for arrears of rent. Such is not the case with the poor landlords. Moreover, even the big families themselves are partitioning under the recent Marumakkathayam and Nayar Acts and even educated members belonging to such families find it well-nigh impossible to secure employment in Government service, or to take to any lucrative profession. In such cases, the landlord should be given an opportunity to go back to his own land and to earn his livelihood by cultivation. There is no reason why a mere occupier or speculator should be preferred to the owner or the jenmi. Even if a tenant owns many acres of land, he should not be allowed to be evicted with respect to any portion of his holding by his jenmi, even if that jenmi has no lands in his possession. The idea seems to be there is something sacrosanct in the name cultivator and this word loses its sanctity if the landlord becomes one.

The Select Committee in their report says that they did not vote for the provision because they were unable to devise practical means to prevent effectively an abuse of this privilege. From this we can understand that they do not dispute the justice of the claim of the jenmies. The Hon'ble the Advocate-General in his speech seconding the Bill mentioned about the findings of the Kuttikrishna Menon Committee Report about this matter. It is from their findings that the committee detected that there is wide abuse of this privilege by the jenmies. The same Kuttikrishna Menon Committee who took elaborate evidence on the matter did not reject the claim of the landlords in this respect though they say that there is an abuse of this privilege in some cases and the provisions contained in the existing Malabar Tenancy Act are inadequate to prevent the abuse of this privilege. From the amendment No. 46 to this Bill which was not moved by the Hon'ble Member for Vadakkancheri, we can see that even redoubtable champions of the tenants like my Hon'ble Friend, the Member for Vadakkancheri has recognised the justice of this claim though he is willing to give back to the poor jenmi only one acre of land for his own cultivation. So we can see the right the jenmi claims in this respect is just and proper.

So the only difficulty seems to be, Sir, to find ways and means to prevent as far as possible the abuse of these provisions. My humble submission is that the recommendations of the

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Kuttikrishna Menon Committee may be incorporated in our Bill. I hope there is nothing wrong in accepting those recommendations. If we are willing to accept their findings in regard to the working of the Malabar Tenancy Act for the past 12 years, we will not be far wrong in accepting their recommendations to remedy the defects in the working of that Act. By this I do not mean to copy the whole thing. The Government can make necessary modifications to suit local needs and conditions and find a way to satisfy the right claims of the jenmies if they are satisfied that their claim is just. So I once more request the Government to sympathetically consider the matter.

With these few words I submit the motion for the acceptance of this House.

Mr. T. S. Ramachandra Ayyar *(Chittur-Tattamangalam):* I second it.

Mr. T. A. Ramachandra Ayyar *(Nellayi):* I support this motion. On a previous occasion I told you that I am not a good speaker of English. I had decided to write down my speech so that you may also understand. But when I moved a resolution on price control, my friend, the Hon'ble Member for Cranganur objected to and attributed motives to me saying that it was written by somebody else, read out for somebody else, &c. In order to prevent such accusations, I have decided to speak in Malayalam and I presume that since you have been here for a long time, you also can understand something of Malayalam.

ആദ്യം ഈ ബിൽ അവതരിപ്പിച്ചതിനെ വാഗ്വാദം ചെയ്ത ആളുകൾക്ക് ഒരു തെറ്റു പറ്റിപ്പോയിട്ടുണ്ട്. അതു എന്താണെന്നുവെച്ചാൽ "ജന്മി" എന്ന വാക്കിനെപ്പറ്റിയാണ്. "ജന്മി" എന്ന വാക്കുകൊണ്ട് അവർ ധരിച്ചിരിക്കുന്നതു് വലിയ പണക്കാരെന്നാണ്. "പാമ്പ്" എന്നു പറഞ്ഞാൽ പലതരത്തിലുണ്ട്. അതിൽ കൃഷ്ണസർപ്പങ്ങളുണ്ട്, നീക്കോലിയുമുണ്ട്. എന്നാൽ പാമ്പു് എന്നുവെച്ചാൽ മുഴുവനും കൃഷ്ണസർപ്പങ്ങളാണെന്നു് വിചാരിച്ചാൽ അതു വലിയ അബദ്ധമാണ്. അതുപോലെ "ജന്മി" എന്നു പറഞ്ഞാൽ എല്ലാവരും ജന്മികളാണെന്നു് ധരിക്കുന്നതും വലിയ അബദ്ധമാണു്. ഈ കൊച്ചീരാജ്യത്തു് എത്ര ജന്മിമാരുണ്ടെന്നു് നമുക്കു കണക്കാക്കി നോക്കാം. സക്കാർദേവസ്വം കഴിഞ്ഞാൽ പത്തോ, പന്ത്രണ്ടോ ജന്മിമാരുണ്ടാകും. അവരിൽ രണ്ടോ, മൂന്നോ ജന്മിമാരൊഴിച്ചാൽ ബാക്കിയുള്ളവരെല്ലാം കുടിയാന്മാരെ സഹായിക്കുന്നവരാണെന്നു് കാണാവുന്നതാണു്. രണ്ടോ, മൂന്നോ ജന്മികൾ കുടിയാന്മാരെ ഉപദ്രവിക്കുന്നവരായിരിക്കാം. അതിനുവേണ്ടി ഒരു നിയമം പാസ്സാക്കുന്നതിന്റെ ഉദ്ദേശം എനിക്കു് മനസ്സിലാകുന്നില്ല. ഞാൻ മുൻപു് പറഞ്ഞതുമാതിരി ഇതുകൊണ്ടു് വലിയ ദോഷം പറയിയേക്കാം. ഒരു സർപ്പത്തിന്റെ വിഷം പറഞ്ഞാൽ എത്ര മരുന്നു കഴിക്കേണ്ടിവരും. എന്നാൽ ആ കാരണംകൊണ്ടുതന്നെ ആരും മരിച്ചുപോകുന്നതും വരും. രണ്ടോ, മൂന്നോ ജന്മികൾ ഉപദ്രവക്കാരാണെന്നു് വിചാരിച്ചു് കൂടുതലുള്ള ജന്മികളെ, ഉപദ്രവിക്കുന്നതു് വലിയ കഷ്ടമാണെന്നാണു് എനിക്കു പറയുവാനുള്ളതു്. ഞാൻ ഒരു കൃഷിക്കാരനും, ജന്മിയും, കുടിയാനുമാണു്. ഞാൻ കൃഷി ചെയ്യുകൊണ്ടിരുന്ന നിലങ്ങൾ, എന്തെങ്കിലും കാരണവശാൽ ഒരു കൊല്ലം എനിക്കു് കൃഷിചെയ്യുവാൻ സാധിക്കാതെ വന്നു, ഞാൻ വേറെ ഒരു പാട്ടക്കാരനെ ആ നിലം പാട്ടത്തിനു് ഏല്പിച്ചുവെന്നു വന്നാൽ അടുത്ത തവണ എനിക്കു് കൃഷിചെയ്യണമെന്നുണ്ടെങ്കിൽ ആ പാട്ടക്കാരൻ ഒഴിഞ്ഞുതരുമോ? അതുപോലെ വളരെ കാലം കൃഷി നടത്തിപ്പോന്നിരുന്ന ഒരാൾ ഉദ്യോഗത്തിൽ പ്രവേശിച്ചാൽ തല്ക്കാലം അയാൾക്കു കൃഷിചെയ്യുവാൻ സൌകര്യപ്പെടാതെ ഒരാളെ ഏല്പിച്ചാൽ, പിന്നീടു അയാൾക്കു വീണ്ടും ആ കൃഷി നടത്തണമെന്നു വിചാരിച്ചാൽ അതു സാധിക്കുമോ? അതുപോലെ ആയിരം പറ നെല്ലുകിട്ടുന്ന ഒരു ജന്മി നാലോ, അഞ്ചോ കുടുംബമായിട്ടു പിരിഞ്ഞുവെന്നു വിചാരിക്കുക. അവർ നടത്തിയിരുന്ന ആ കൃഷി ഒരാളെ ഏല്പിച്ചാൽ കുടിയാൻ ശരിക്കു് പാട്ടം കൊടുത്തില്ലെങ്കിൽ അയാളെ എങ്ങിനെ ഒഴിപ്പിക്കുവാൻ സാധിക്കും. ഈ നെല്ലു് കിട്ടീട്ടുവേണം നാലഞ്ചു കുടുംബക്കാരുടെ ഉപജീവനമാർഗ്ഗം കഴിയുവാൻ. അപ്പോൾ അവർ അന്യനെ ആശ്രയിക്കേണ്ടിവരും. ഇങ്ങിനെയെല്ലാമുള്ള ഒരു നിലയിൽ അവരെ ഒന്നു സഹായിക്കേണ്ടയോ എന്നുമാത്രമാണു് എനിക്കു ചോദിക്കുവാനുള്ളതു്. ഇതു് വലിയ ജന്മികളുടെ കാരണം പറഞ്ഞു് അസംഖ്യം ചെറിയ ജന്മികളെ ഉപദ്രവിക്കുന്ന ഒരു ഏർപ്പാടായതുകൊണ്ടു് ഗവർമ്മെണ്ടു് പ്രത്യേകം ഒന്നു ഓർമ്മിക്കേണ്ടതാണു്. വലിയ ജന്മിയുടെ ഉപദ്രവത്തിനു് ഒരു പരിഹാരമായിട്ടാണു് ഈ നിയമം ഇവിടെ കൊണ്ടുവരപ്പെട്ടിട്ടുള്ളതു്. എന്നാൽ അവർക്കു് ഇത്തരം ഉപദ്രവങ്ങളൊന്നും പറ്റാറില്ല. അവരെ ഈ നിയമംകൊണ്ടു് ഉപദ്രവിക്കുവാനും സാധിക്കയില്ല. അവരുടെ ആവശ്യത്തിനു വേണ്ട സ്ഥലങ്ങൾ അവർക്കു് ഒഴിഞ്ഞുകിട്ടും. എന്നാൽ ഇടത്തര

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ക്കാരായ ജന്മികൾ എന്തുചെയ്യും? പത്തു പറക്കു് നിലം സ്വന്തമായി കൃഷിചെയ്തു ഉപജീവനമാർഗ്ഗം കഴിക്കണമെന്നു ഉദ്ദേശിക്കുന്ന ഒരാൾക്കു് അയാൾ അതു പാട്ടത്തിനു കൊടുത്തു വെന്നുള്ള കാരണത്തിന്മേൽ ഒഴിഞ്ഞുകൊടുക്കുകയില്ലെന്നു് പറയുന്നതിന്റെ അർത്ഥം എനിക്കു് മനസ്സിലാകുന്നില്ല. ഒരു ഭൂമി ഉടമസ്ഥൻ പാട്ടത്തിനു് കൊടുത്തിട്ടുള്ളസ്ഥലം അയാൾ ഒഴിഞ്ഞു കിട്ടണമെന്നു് ആവശ്യപ്പെട്ടാൽ, അതു് അയാളുടെ സ്വന്തം ആവശ്യത്തിനാണെന്നു് ബോദ്ധ്യപ്പെട്ടാൽ അതു ഒഴിവാക്കിക്കൊടുക്കേണ്ടതു് വളരെ അത്യാവശ്യമായിട്ടുള്ളതാണു്. ഇതു് സിലക്ട് കമ്മിറ്റിയിൽ തന്നെ വളരെ അത്യാവശ്യമാണെന്നു് സമ്മതിച്ചിരിക്കുന്നു. ഇതിനുള്ള വഴി കണ്ടുപിടിക്കണം. വളരെ പാട്ടക്കാർക്കു് ഉപകാരമുള്ള ഒരുകാര്യമായതുകൊണ്ടു് ഇതിനു് ശരിയായ ഒരു വഴി കണ്ടുപിടിക്കേണ്ട ചുമതലയുണ്ടെന്നാണു് ഞാൻ പറയുന്നതു്.

മിസ്റ്റർ വി. ജെ. മത്തായി: അതു വളരെ വിഷമമാണു്.

മിസ്റ്റർ ടി. എ. രാമചന്ദ്രയ്യർ: ഏതാണു് വിഷമമുള്ളതു്? വേണമെന്നുണ്ടെങ്കിൽ സാധിക്കാത്തതു് ഒന്നുമില്ല. ഇതിനുള്ള ഒരു വഴി കണ്ടുപിടിക്കുവാൻ സാധിക്കുകയില്ലെന്നു പറഞ്ഞാൽ അതു വളരെ കഷ്ടമാണു്. നമ്മുടെ കൂടിയാന്മാരെ രക്ഷിക്കേണ്ട ചുമതല ഈ നിയമസഭയിലുള്ളവർക്കുണ്ടു്. ഇങ്ങിനെ ഒരു ബിൽ പാസ്സാക്കിക്കഴിഞ്ഞാൽ സകല കുടിയാന്മാർക്കും രക്ഷയായി. പിന്നെ സാധു ജന്മികളെയും കൂടി ഒന്നു സഹായിക്കുന്നതായാൽ അതുകൊണ്ടും മുഴുവനും ഈ ബില്ലിനെ പ്രശംസിക്കുന്നതായിരിക്കും. അതുകൊണ്ടു് ഒരുവിധത്തിലും സാധു ജന്മികൾക്കു് എന്തെങ്കിലുമൊരു സഹായം ചെയ്തുകൊടുക്കണമെന്നാണു് എനിക്കു അപേക്ഷയുള്ളതു്. ഞാൻ ഈ ഭേദഗതിയെ അനുകൂലിച്ചുകൊള്ളുന്നു.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur)*: I oppose this amendment. According to the principle of this Bill eviction is unnecessary to the jenmi and hard to the tenant. Both jenmi and tenant are dependant on the land regarding which they have entered into a contract. The jenmi has to live on the pattam and the tenant with the rest of the income from the land. If there is no provision for eviction the disadvantage to the jenmi can be only his inability to take the entire income from the land to himself. The Bill assures regular payment of pattam to the jenmi and he has to be satisfied with it. But if eviction is granted the tenant is divested of his only source of subsistence and becomes helpless. This Bill ensures pattam to the jenmi and possession of land to the tenant. It seeks to protect the interests of both. It is a happily conceived legislation *(Hear, hear)*. We may not find a parallel elsewhere. It is a pro-jenmi as well as a pro-tenant legislation. This character of the Bill will go if provision for eviction is introduced into it. I therefore strongly oppose this amendment.

Mr. M. Krishna Menon *(Trichur-North)*: I beg to oppose this amendment with all the force at my command. Now, the Hon'ble Members of this Hous are aware of the reason which has prompted the Select Committee to negative such a provision and, the Malabar Tenancy Act which has this provision of self-cultivation for the jenmi stands self-condemned in regard to the working of that Act. The cardinal principle upon which this Bill has been introduced, at the instance of the Government, mind you, is that the magic of private property turns sand into gold, that is to say, an incentive is given to the tenant to make the best of the land which is available to him. Now, the mere purpose of the Bill will be defeated if the self-cultivation clause is inserted; and I ask the Hon'ble Jenmi Member whether the proverbially insolent and indolent landlord is all on a sudden awakening to the necessity of going back to the land and cultivate the land himself? Another argument suggested by the Hon'ble Jenmi Member in his dissenting minute is that if a landlord wants to secure a Government job he is not going to get it and therefore he should be allowed to go back to the land. I ask the Hon'ble Member whether it is not the jenmies who are getting jobs in the service or the tenant. Better leave that matter there. Another argument of the Hon'ble Jenmi Member is that if this clause is not inserted in the Bill, at the time of partition of Malabar families of Nayars, Marumakkathayees and Nambudiries, it is most inconvenient, thank God that the Malabar families are not disintegrated at least on this score. Another argument brought forward is the sorrowful plight of the landlord if the insertion of this clause is omitted; that is to say, the landlord will not be in possession of a single speck of land, whereas the tenant will be in possession of various acres belonging to the jenmi. Now, I ask the Hon'ble Jenmi Member whether the landlord of Cochin is a new importation from the West just arrived in the Cochin Harbour today? The landlord was born in Cochin, he was bread up in Cochin, he has been living in Cochin. I am sure he will be standing at least upon a few square feet of land. He is going to get the income of the lands which he has let to the tenant, and he need not fear on that score. If this clause is

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inserted, sure as anything, the landlord is going to make capital out of the amendment. Hence I oppose the amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Before speaking on this amendment, I would like to know from the Government what their attitude is in regard to this amendment. I want to clear it before discussion is continued.

Mr. M. K. Devassy *(Adur):* I believe that at the time of introducing this Bill Government were clear upon this amendment.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I should like to know the attitude of Government?

Mr. President: He wants to hear what the Hon'ble Members have to say.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* Then there may be some difficulty. If the Government is giving their view only after many members have spoken, then the other members will again have to speak, because the amendment is moved from this side.

Mr. M. Sivarama Menon *(Advocate-General):* I have already indicated in the opening speech after this Bill was taken up for consideration by this House, that we are holding the view that as a matter of fact it will lead to abuses and therefore we are not for the position that right should be given to the jenmi for eviction for purposes of self-cultivation. We are open to conviction. We want the views of the Hon'ble Members. Till we grow wiser by those speeches, our position is that we must oppose this amendment.

Mr. K. M. Ibrahim *(Cranganur):* May I know whether in the present Malabar Tenancy Act there is a provision similar to the one demanded by the Hon'ble Member.

Mr. M. Sivarama Menon *(Advocate-General):* Yes, there is.

Mr. A. V. Moothedan *(Chalakkudi):* That is a different scheme.

Amendment, put and lost

Amendments 48, 49 and 50 not moved.

Mr. M. K. Devassy *(Adur):* I rise to move amendment No. 51.

Mr. M. Sivarama Menon *(Advocate-General):* Amendments 51, 52, 53 and 61 relate to the same issue, relief against forfeiture. Amendment No. 53 tabled by the Hon'ble Member for Vadakkancheri refers to the appropriate section in the Transfer of Property Act under which relief against forfeiture is granted. Therefore, if all these amendments are discussed together and if the Hon'ble Members agree, amendment No. 53 is put to vote, then there is no necessity for considering amendments 51, 52, 53 separately. Section 111 reads thus.—

"Where a lease of immoveable property has determined by forfeiture for non-payment of rent and the lessor sues to reject the lessee, if at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree for ejectment, pass an order relieving the lessee against the forfeiture and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred".

I think that satisfies the requirement of this amendment. Therefore, if all the members who have tabled amendments will agree, Mr. Ezhuthassan's amendment may be discussed and voted upon.

Mr. M. K. Devassy *(Adur):* I quite agree.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Mr. President, Sir, the clause as it stands read thus:—"When the eviction of a *verumpattamdar* is sought on the ground specified in clause (c) or (d) of sub-section (1), the court shall not either extend the time for or condone the delay in the payment of such pattam or arrears, but shall be bound to order the eviction of the verumpattamdar from the holding". According to the clause, the consequences following a tenant not being able to pay the jenmi's dues within 90 days from the date on which it is due according to clause (c) and within 180 days from the date of passing of this Act, all the arrears inclusive of 1117, the court has no option but to order eviction. If the arrears relate to his

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house, he will be sent away from the house, if it is from the land, he will be sent out from the land. What I seek through this amendment is that a tenant who for any reason might not have paid the dues in time or might not be able to pay within 90 days or 180 days should not be penalised as strictly and severely as the clause lays down. My respectful submission to this house is that when as a result of non-payment a suit is instituted yet another opportunity should be given to him to pay up the very last pie to the jenmi under clauses (*c*) and (*d*) and get himself relieved against the forfeiture that would otherwise be his lot. It is not anything much that I ask. If only the tenant offers to pay what is payable to a jenmi soon after the suit is instituted or within such time as the court considering all the circumstances deems fit to grant he must be given relief. Nothing more is solicited. In such cases the provisions of section 111 of the Transfer of Property Act may be applied and the tenant may be given relief against forfeiture. I therefore commend the amendment for your sympathetic and dispassionate consideration.

Mr. M. K. Devassy *(Adur)*: I second the motion. My amendment was taken from the Malabar Tenancy Act and Mr.Ezhuthassan's from the Transfer of Property Act. Both deal with the same, namely, when a suit is instituted if a tenant is prepared to pay all the arrears with interest and court costs he must get relief against forfeiture. This clause in the Bill as it stands is to the effect that the moment default is committed the right to permanency is lost even if he is prepared to make any reparation. My submission to this House is that if it is the object of this Bill to create a permanent right in the tenants, you should give him reasonable chances of keeping alive that right. If within 90 days he does not pay and when a suit is instituted he is prepared to make any reparation for it, prepared to pay the whole pattam, if he cannot get that relief what is the value of this right? The House must consider that there is no meaning in this permanent right unless it is a substantive right which on a reasonable condition and under normal circumstances it is possible for a man to keep up. Now I ask the jenmies, what are they going to lose? They are not going to lose any thing by this provision. By bringing an eviction suit they are paid to the last pie. Why not you give him that relief? My submission to this House is this is a vital amendment which alone will keep up the spirit of this legislation and without which this so-called permanency of tenure is meaningless, like a dream which will appear and disappear and which will not enure to the benefit of the tenant.

Mr. V. J. Mathai *(Planters)*: I think there ought to be a provision like the one in a parallel piece of legislation, namely the Kuries Act. Under the terms of a Kuri Vaimpu if a subscriber who had bidden the Kuri and taken the price money failed to pay the amount on a particular day immmediately all the money due from him should be paid in a lump. In the Kuries Act which has been enacted in 1107 it is provided that even if a default is made and if a suit is filed and if the money due, with the interest thereon and costs, are deposited in court the acceleration clause does not come into effect. I point out that piece of legislation as it is directly in point. If on the 90th day a person starts from his house and on account of the adversity of the elements or due to accidents such as the bus breaking down or anything like that—that is from causes beyond his control he is unable to reach the jenmi difficulties arise if this clause remains as it is. The point is that such cases should be helped, or a jenmi may refuse to take the money. Suppose the money is brought to him on the last day. The jenmi may refuse because the next day he knows he will get the property. And the tenant becomes helpless. Therefore it is absolutely necessary that this amendment should be accepted.

Mr. V. K. Bhaskara Menon *(Cranganur)*: I oppose the amendment. It has been argued by Mr. Ezhuthassan with great pain that a tenant will be losing his house if a suit is instituted on the 90th day. The same pathetic condition will happen when he is kicked out, after a period of 8 months. There will be suffering because he won't get anything. In this connection I should like to bring to the notice of the House that when the Agriculturists Relief Bill was discussed in this Council the then Diwan President said that the Agriculturists of the country are such that they have not got the innertia to do things in the proper time unless there is a drastic provision. If such a provision does not exist the chances are both the jenmies as well as the tenants will suffer. I submit that this amendment should not be looked with favour.

Mr. President: I would like to know from the Hon'ble Members as to whether if the Bill be finished today the third reading can be taken up today itself. Otherwise we can have another sitting tomorrow. I should like to know whether the Hon'ble Members are of opinion that we can take up the third reading of the Bill today itself assuming that they will finish discussion of the Bill.

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Mr. V. J. Mathai *(Planters)*: I may point out that in the Parliament even the first, second and third readings are taken up on the same day.

Mr. T. A. Ramachandra Ayyar *(Nellayi)*: We shall get the opinion in the after noon for some members are absent now and many of them will be present in the afternoon.

Mr. President: The House consists of the members who are present and there is a certain difficulty in putting off the decision until very late, because His Highness' sanction has to be obtained for a further day's sitting. Have any Hon'ble Members got any objection to taking up the third reading to-day. *(Voices: No—No—No)*.

The House rose for lunch at 1 p.m. and reassembled at 2-30 p.m. with Rao Sahib K. Ayyappan, the Deputy President in the Chair.

Mr. A. V. Moothedan *(Chalakkudi)*: I support this amendment moved by my friend Mr. Ezhuthassan. The clause reads like this.—"When the eviction of a verumpattamdar is sought on the ground specified in clause (*c*) or (*d*) of sub-section (1), the court shall not either extend the time for or condone the delay in the payment of such pattam or arrears, but shall be bound to order the eviction of the verumpattamdar from the holding." By a reading of this section, it would appear that the legislature has no confidence in our courts of law. The presumption will be that courts of law will always be inclined to grant time or to condone delay. I think that is an aspersion on our courts of law. The proper provision would have been that "the courts of law shall not extend time without sufficient cause." Therefore, it won't add to the reputation of our courts by adding such a provision. As it is when once default is made, give him some more time. I have not heard of such a legislation in my life. There is a general law by which under certain circumstances, courts can condone the dealy, and in no legislation have I heard such a power. Power is taken away from the courts and the legislature has no confidence on the impartiality of the courts of law, and on that ground I support this amendment.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: എനിക്ക് ഈ ഭേദഗതിയെ അനുകൂലിക്കുന്നതിൽ അതിയായ സന്തോഷമുണ്ട്. ജന്മികൾക്കു പാട്ടം ശരിയായിട്ടു കിട്ടുന്നില്ലെന്നുള്ള ഒരു പരാതിയാണ് ഇതുവരെ ഉണ്ടായിട്ടുള്ളതു്. ഇരുപതു കൊല്ലമായിട്ടും മുപ്പതുകൊല്ലമായിട്ടും പാട്ടബാക്കിവെച്ചിട്ടുള്ള കുടിയാന്മാർ ധാരാളമുണ്ടെന്നു് പല ജന്മികളും പറയുന്നുണ്ടു്. ഈ ബിൽ വന്നതു് കുടിയാനവന്മാക്കു് വളരെ ദോഷമാണു് ഇരുപതുകൊല്ലമായിട്ടും മുപ്പതുകൊല്ലമായിട്ടും വസ്തു ഒഴിപ്പിക്കാത്തവരാണു് തങ്ങളെന്നു പറഞ്ഞു് കുടിയാന്മാരുടെ മേൽ മുതല കണ്ണുനീർ ഒഴിപ്പിക്കുന്ന പലേ ജന്മികളെയും എനിക്കു് കാണുവാൻ സാധിച്ചിട്ടുണ്ടു്. എന്റെ സ്നേഹിതൻ മിസ്റ്റർ കോഡർ ഇവിടെ പറയുകയുണ്ടായി, ആയിരം ഉറുപ്പിക പാട്ടബാക്കി വെച്ചിട്ടുള്ള ഒരു കുടിയാനു് ഫ 0 0 ക. കൊടുത്താലും വിരോധമില്ല, വസ്തു ഒഴിഞ്ഞു കിട്ടിയാൽ മതിയെന്നു്. അദ്ദേഹം കുടിയാനവന്മാരോടു് വളരെ മൃദുവായിട്ടാണു് പെരുമാറുന്നതെന്നു് പറഞ്ഞു. എന്നാൽ അങ്ങിനെയുള്ള യാതൊരു ദോഷത്തിനും ഇടവരാത്ത വിധത്തിൽ ൻ 0 ദിവസം കഴിഞ്ഞിട്ടു് അന്യായം കൊടുത്താൽ ആ പാട്ടബാക്കിയുള്ളതു് കോടതി ചിലവോടുകൂടി കോടതിയിൽ കെട്ടിയാൽ ആ വസ്തുവിന്റെ സ്ഥിരാവകാശവും കുടിയാനവന്മാക്കു് പോകരുതു് എന്നുമാത്രമെ ഈ ഭേദഗതികൊണ്ടു പറയുന്നുള്ളു. കുറി ബില്ലിന്റെ കാര്യത്തിൽ ഗവമ്മെണ്ടു് ബുദ്ധിപൂർവ്വം പ്രവൃത്തിച്ചതുപോലെ വെറുമ്പാട്ടക്കുടിയാൻ ബില്ലിൽ പ്രവൃത്തിക്കാതിരിക്കുവാനുള്ള കാരണം ഒരു പക്ഷെ ട്രഷറി ബഞ്ചിലിരിക്കുന്നവർ ജന്മികളായതുകൊണ്ടോ, ജന്മികളോടു് അടുപ്പമുള്ളവരായതുകൊണ്ടോ, ഗവമ്മെണ്ടു തന്നെ ഒരു വലിയ ജന്മിയാണെന്നു ഇന്നലെ ഒരു ബഹുമാനപ്പെട്ട മെമ്പർ പറഞ്ഞ തരത്തിലായതുകൊണ്ടോ എന്താണെന്നു മനസ്സിലാകുന്നില്ല.

മിസ്റ്റർ പി. കുമാരനെഴുത്തച്ഛൻ; ഗവമ്മെണ്ടല്ലേ കുറിബില്ലു കൊണ്ടുവന്നതു്?

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: കുറിബില്ലിനെപ്പറ്റി ബഹുമാനപ്പെട്ട തോട്ടക്കാരുടെ മെമ്പർ പറഞ്ഞതുപോലെ കുറിമുടക്കം വരുത്തിയ സംഖ്യക്കു് കേസുകൊടുത്താൽ മുടക്കിയസംഖ്യ അടക്കുന്നപക്ഷം കേസു് അവസാനിപ്പിക്കുന്ന ഒരു സെക്ഷൻ ഉണ്ടു്. അതുപോലെ ഒരു സെക്ഷൻ ഈ ബില്ലിൽ ചേർക്കുവാൻ ഗവമ്മെണ്ടിനു് യാതൊരു വിരോധവുമില്ലാത്ത നിലക്കു് ജന്മിക്കു് ഈ ഭേദഗതി ഇവിടെ സ്വീകരിക്കുന്നതുകൊണ്ടു് പ്രത്യേകം യാതൊരു ദോഷവും വരുവാൻ ഇടയില്ലാത്തതാണു്. അനീതി ജന്മിക്കു് ഇല്ലെന്നും, ജന്മിക്കു് പാട്ടം ശരിയായി കിട്ടിയാൽ മതിയെന്നുമുണ്ടെങ്കിൽ ഈ ൻ0 ദിവസം കഴിഞ്ഞതിനുശേഷം

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കുടിയാനവന്മാരുടെ പേരിൽ കേസ്സു കൊടുത്തു, കോടതി ചിലവും കൂടി മന്നായി കുടിയാൻ കൊടുക്കേണ്ടിവന്നാലും, അവന്റെ സ്ഥിരാവകാശം നഷ്ടപ്പെട്ടു പോകരുതെന്നു പറയുന്ന നീതിപൂർവ്വമായ അപേക്ഷയെ, ഗവമ്മെണ്ടിന്നു കുടിയാനവന്മാരോടു സ്നേഹമുണ്ടെങ്കിൽ, കുടിയാനവന്മാരുടെ ആനുകൂല്യത്തിന്നു വേണ്ടിയാണു ഈ ബിൽ ഗവമ്മെണ്ടു അവതരിപ്പിച്ചിട്ടുള്ളതെങ്കിൽ, ഈ ഭേദഗതിയെ ഗവമ്മെണ്ടു അനുകൂലിക്കണമെന്നു ഞാൻ അഭ്യർത്ഥിച്ചുകൊള്ളുന്നു.

Mr. M. Nanu Menon *(Ernakulam):* I oppose the amendment. Sir, I am neither a landlord nor a tenant. When the Government has brought a Bill to protect the tenant, Government has a right to protect the landlords. When the tenant is given a fixed tenure, the jenmi must be given his rightful share also. For that, if the tenant is given any amount of time, to give it, he will naturally find out some excuse and may not give it at the right time. So, a hard and fast rule is absolutely necessary to make the tenant pay the rightful share due to the landlord.

Mr. P. P. Devassy *(Trichur-South):* In fact, the opposition to this amendment seems to be so feeble that it is very doubtful whether any further reply is necessary. At the same time, there is one main ground urged by way of opposing this amendment, namely that there will be delay in the realisation of the dues by the jenmi. Now, the legislation proposes to give, as it stands, a period of 3 months for the tenant to pay the amount due. If already a period of 3 months is given, another delay of 3 months more can very well be allowed. Unfortunately even if a suit is instituted and if the tenant is to approach the court for time for payment of arrears it may take at the most only 2 or 3 months. When a legislation has already agreed to give 3 month's time for the tenant to pay his arrears it is not too much on behalf of the tenant to request a further extension of a small term of 3 months more. Within 3 months much is not going to happen ; the heavens are not going to fall. This is the scope of the amendment. In view of the limited scope of the amendment, I believe both the Government and those who are in favour of the jenmi's cause also will extend their support to this amendment and see that this amendment is accepted.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* We oppose this amendment. Yesterday, when we were opposing the amendment to section 8 (1) (c) I put forward one argument and that the House was pleased to accept, and that was this. The idea underlying this Bill is that if the tenant does not pay the amount due from him on the due date, we give him another 3 months, so that after that period, we are in a position to get the property for the cultivation of the next season. That was the argument which I put forward, and that the House was pleased to accept. If that argument is accepted then it necessarily follows that the tenant should not get any further time for the payment. In considering the question whether there should or should not be any extension of time in cases of the present type, as in the cases of permanent tenancies as laid down in the Transfer of Property Act in regard to forfeiture of tenancy and interference by the court in such cases, we have to see whether that principle is applicable to the cases covered by this Bill. So far as permanent tenancies created by contract of parties are concerned, there is one fundamental difference between them and the permanent tenancies created by this Bill and that is this. In the case of permanent tenancies created by this Bill, they are created by force of law. There is no violation on the part of the landlord as to what he should stipulate in the shape of return for the permanent tenancy. In the other case, when a landlord grants a permanent tenancy he gets something in return either at the outset or during the continuance of the tenancy as a cumulative effect of the rent fixed. He takes something in return. He asks for a consideration and it is only after getting that consideration that he parts with the property or parts with his right in the property, that is, his right of keeping the possession of the property. The law views that in an entirely different manner. The law says—"You wanted to give the property in return for something which he gave you. You should have no right to step in and say on any future day, that the properties should again come back to you if he does not perform one small part of the contract." In such cases the law steps in and says "that is too horrible. Such a penalty can never attach to what you have fully and consciously agreed to between yourself and the tenant. You bargained for some thing and you got it. He bargained for something and he got it. Well, each party must have what he bargained for." If any penalty is put upon that contract, then the contract, by virtue of this penalty, will cease to have any meaning, and the sanctity of that contract will cease. Therefore, the law steps in, and says "if there is a forfeiture we shall not allow the landlord to come in." The law says "No. Give the tenant some opportunity to be relieved against forfeiture". But here that is not the case. When the legislature has said one thing and deprived the landlord of what he would have had but for the law, the

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legislature should also step in and say to the tenant "well, you shall step only so far, not further." That is the object of this motion. The law gives the tenant a period of 3 months to pay. If that is not regarded as sufficient, it will be in effect depriving the landlord of the possession of the property for another long period. It is not a case of Government not having any confidence in courts. When once the suit goes to a court of law, for how many hearings and for how many months can the suit be dragged on by the party? That is the question.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Are the courts so poor?

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: I have seen in kuri cases, hundreds of suits simply being dragged on for months and months together. Suppose on the first hearing day the suit is decreed on some ground or other, the defendant being ex parte, the defendant comes after some time and the case is reopened. When you go to take possession of the property also, the same thing happens. That is not the way of treating the landlord who has been forced to part with the possession of the property permanently by force of law. I therefore oppose this amendment.

Mr. M. Sivarama Menon *(Advocate-General)*: The main purpose of these amendments is to secure to the tenant a further time for payment of pattam. Now if the Bill before the House has already secured that purpose for the tenant, why should there be a further amendment is the question. What is it that section 111 of the Transfer of Property Act says? It says that if on the date of default, the tenant does not pay the rent, he incurs forfeiture. The jenmi gets the absolute right of instituting a suit the very next day. On the failure of the tenant to pay the money in due time, a cause of action arises for the landlord to institute a suit and if he institutes a suit, what will be the time-limit which he will get, applying the provisions contained in section 111? When the suit comes up for hearing if the tenant tenders the amount, the court does not allow forfeiture. Then if he does not, he incurs a forfeiture. Therefore, a reasonable time that one can give to a tenant in a case where forfeiture is incurred can only range between 2 and 3 months. In exceptional cases, where there are several parties, for service of processes some more time can be taken. We cannot take such exceptional cases into consideration. Here, from the due date we have given a uniform period of 3 months. Under section 111 of the Transfer of Property Act, the time-limit is 15 days from the passing of the order, and the tenant can get 3 months only if the hearing is dragged on.

Mr. T. P. Poulose *(Kanayannur)*: It is not a question of time. The question is whether there should be some time after forfeiture. You may give one year, two years, or 100 years and say that the forfeiture is incured after 100 years. That is far different from saying 15 days after forfeiture. Therefore, a *locus penitentiae* is given for forfeiture. After the tenancy is forfeited he is given an opportunity to get it condoned. So, 15 days is far different from a period of 100 years.

Mr. M. Sivarama Menon *(Advocate-General)*: The point is the *locus penitentiae* is given in cases where there is a forfeiture on the volition of the contract to pay on the due date. Here, what does the legislature say? You do not incur a forfeiture if it is not paid on the due date. It is only if you do not pay it, within a further period of 3 months that forfeiture is incurred. Relief against forfeiture is contained in the Bill itself. In the first place, the due dates fixed for the payment of pattam should be such that the tenants should be able to pay it up out of the crops raised on the property. There may yet be cases where he may utilise that money for his own purposes on account of other exigencies which may sometimes be beyond the control of the tenant and therefore he may not be able to pay on the exact date. Therefore, the utmost time that is granted to him is three months. But under section 111 of the Transfer of Property Act, what is it that actually transpires? If on the 1st Kanni the pattam is not paid, on the 2nd of Kanni the jenmi can sue, and if summons is served, the defendant will come and say that he wants time. The court will allow 15 days time and if he does not pay within 15 days he will lose his right. Therefore, the time-limit of 3 months is fixed so that there should be no such thing, because it is better that the statute provides a reasonable period within which the whole matter can be settled. Therefore, the result of giving further power to the court to condone the forfeiture already incurred will only be to protract the period within which the tenant ought to make the payment and by that time the other payments will accrue due. On the other hand, he must be made to realise that the right of fixity is given to him by Government in the firm hope that he will see to the performance of his duty in time. But he has been

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trained to a course of dilatory conduct. Yet the legislature says—"though your tenancy is liable to be forfeited yet we do not want to be so cruel to you in the first instance and we will give you 3 months within which you protect your own interests". What else can the Government do?

I am really pained to hear from Mr. Panicker that we are not in favour of the amendment, because the majority of us are either jenmies or friends of jenmies. What I wish to tell him is that no such aspersion need be cast upon anybody. We are all here for a common purpose. Therefore, what I wish to say is, that even if there be jenmies among the members of the Treasury Benches, you can take it from me that, I know the mentality of the Government. It is on account of that that the period of 3 months has been fixed which is the *locus penitentiae*. Which legislation has given a period of 3 months' *locus penitentiae* in a case where default has been incurred under a contract of tenancy? You must keep your eyes wide open. We have taken valuable property from other's hands, and we say, mind you, you must pay the pattam on the due date. Even if you make default, we are inclined to give you a further period of 3 months. When the legislature has made such a provision, where is the necessity for a further extension. It is not that the Government have no confidence in the judiciary. The Hon'ble Member for Chalakkudi said that Government have no confidence in the judiciary, and he also opposes that amendment. In my capacity as a member of this House as also in my capacity as the head of the legal profession, I have to say that the Government have the utmost confidence in the judiciary. A reasonable period has been fixed under this Bill itself. If you go further than that limit, there will be an abuse and it will be doing an irreparable injustice to a section of the community. We should not be cruel towards them, Government thought that there should be balance of interests between the parties and that in regard to the provisions in the Bill they will not prejudice the interests of the tenant by reasonably safeguarding the interests of the jenmies. My submission is that this provision relating to the condonation as to the relief against forfeiture was introduced in this Bill for the particular reason that litigation should as far as possible be avoided between the landlord and the tenant and not on account of any other reason.

Mr. A. B. Salem *(Mattancheri)*: May I know when suits are filed, whether summons are returned unserved.

Mr. M. Sivarama Menon *(Advocate-General)*: That depends upon certain circumstances.

Mr. A. B. Salem *(Mattancheri)*: I know of cases where summons have not been accepted for over a year. If a tenant takes it into his head not to receive summons on the plaint of the jenmi, he can do so for over a period of one year. So, he gets 3 months for the trial and one year for the summons.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Mr. President, there is not much that calls for any reply, Sir. I have only to read the clause as amended and the clause as it stands, and no further argument will be necessary. The clause as it stands reads thus.—"When the eviction of a verumpattamdar is sought on the ground specified in clause (*c*) or (*d*) of sub-section (1), the court shall not either extend the time for or condone the delay in the payment of such pattam or arrears, *but shall be bound to order the eviction of the verumpattamdar from the holding*". The clause with the amendment will read thus.—"When the eviction of a verumpattamdar is sought on the ground specified in clause (*c*) or (*d*) of sub-section (1), the court shall apply the provisions of section 111 of the Transfer of Property Act, XVII of 1111." All members know what are the provisions contained in section 111 of the Transfer of Property Act. So, are we changing the law by this amendment? Nobody refuses to pay deliberately. It must be under peculiar circumstances that non-payment has come about. In such cases give a little more time. The defaulting tenant may be given yet another opportunity to pay off the arrears and that within the shortest time possible. The opposition to this amendment by the Government which has been pleased to bring forward such a salutory legislation which from every side will be admitted to be the first of its kind in agrarian legislation, is rather hard. Agrarian legislation we had on the other side of the river. But none has reached this height and we are all extremely grateful to the Government for having come forward with such a legislation that holds the balance even between the two parties concerned, the landlord and the

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tenant. We have in a so-called ex-proprietary measure like this surely to hold the balance even between the landlord and the tenant. You insist upon the payment by the tenant to the jenmi. Your bargain is there. Nobody complains if unfortunately the tenant does not succeed in paying the amount on the due date, grant him 15 days time more. That is all the request. The Transfer of Property Act, is a piece of legislation that became a law in this State only recently. Till then the salutary provisions of the Transfer of Property Act which was no law here were being administered by our judiciary. Though there was no Transfer of Property Act in Cochin, the provisions contained in the British Act were being followed regarding questions turning upon the provisions contained in the Transfer of Property Act. Now, that law has been enacted in our State. That Act gives the tenant a right to have his forfeiture condoned. Section 111 says that. Are you going to take away that existing right by this legislation which says "the court shall pass a decree." That is a position rather dangerous for any jurist to take and I am surprised to find that the opposition did come from a friend who had been an ornament to the judiciary, the Diwan Peishkar, and from the able Advocate-General.

Deputy President: You need not state anything about the personal or private capacity of the members on the other side. Sometimes it may be complimentary, at other times it may not be complimentary.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: That, Sir, is inevitable. My point was this. I was not fortunate enough to be in this House when the Bill was introduced. But my predecessor with reference to my constituency Mr. Kochukunhan Kaimal a big jenmi—see how beautifully he has shown the absurdity of this clause. I will refer to that portion of his remarks. Referring to this clause regarding the right of the jenmi to evict the tenant on non-payment of pattam, he says.—"The important provision upon which undue emphasis is laid is the non-payment of the amount within one month from the date of the contract and that provision has been made unduly stringent by saying that no case of relief will be allowed against forfeiture." He pointedly refers "it has been made unduly stringent by saying that no case of relief will be allowed against forfeiture." An Hon'ble Member who is a jenmi himself though representing a general constituency has stated that this provision is unduly stringent and therefore it was his exhortation to this House that the Select Committee might look into it. My submission is that if the clause is allowed to remain unamended, it takes away the effect of the provisions of section 111 of the Transfer of Property Act which is actually the law of the State. This small relief that is sought through the amendment is to give him a little more time which the existing law allows. That is not too much to ask. Of course I can well understand the opposition of Mr. Bhaskara Menon that whatever be the time-limit even if it is one year, the tenant may not pay and further time will have to be extended. He had taken up that position at the introduction stages. In holding the balance even between the parties, you are not going to tilt it against the landlord by granting this small relief which is sought under the amendment. I therefore pray that all the Hon'ble Members may be pleased to vote for this amendment.

The amendment put and lost, 20 for and 25 against

Amendments Nos. 54 to 61 not moved

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: I move the following amendments.—
For sub-clauses (1) and (2) of clause 9, substitute the following.—

"(1) Any person having an interest in the holding of a verumpattamdar by virtue of a title acquired by act of parties or by operation of law shall—

(*a*) where such interest has been acquired prior to the date of the commencement of this Act, within a month from such date and

(*b*) where such interest is acquired after the commencement of this Act, within a month from the date of such acquisition, give registered notice of his interest in the holding to the jenmi and to all the intermediate landlords between the jenmi and the verumpattamdar whose interest he has acquired. The said notice shall contain particulars of the property, its extent, the nature of the interest acquired and the date of acquisition of such interest. Failure to give the notice shall disentitle such person to relief against forfeiture under sub-section (2).

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(2) Where default is made by a verumpattamdar in the payment of pattam or arrears of pattam under clause (*c*) and (*d*) of section 8, his lessor shall give registered notice of the default to the persons who have notified the existence of their interest under sub-section (1). The sub-lessees in the order of priority of their leases and the other persons having an interest in the holding shall be entitled to relief against forfeiture on payment of the arrears within a period of one month from the date of service of the notice of default. The lessor shall be bound to receive such payment of pattam or arrears which shall be reduced to the extent of the payment made by him.

Provided that where a person has acquired interest only in a portion of the holding, such person shall be bound to pay only so much of the pattam or arrears of pattam as will on apportionment fall on such portion of the holding. In the absence of agreement such apportionment shall be made by the court on application made to it by such person within one month from the date of service of the notice of default. The time between the date of the petition and the date of the final order shall be excluded from the period of one month specified in sub-section (2)".

Mr. M. Sivarama Menon *(Advocate-General)*: I second the motion.

Amendment put and carried

Amendments 63 to 66 not moved

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: The amendment is "In sub-clause (3) after the first sentence the following proviso shall be added.—"Provided that where Government is a party, all such applications shall be made to the District Court within whose jurisdiction the property is situate." In the original section, there is no such provision. It does not go against the principle of the clause. The original clause as it stood says—"All applications for apportionment under the proviso to sub-section (2) shall be made to the court of the District Munsiff within whose jurisdiction the property is situate. The order of apportionment shall have the force of a decree and be appealable as such."

In this amendment, we say that when the Government is a party, application should be made to the District Court.

Mr. M. Sivarama Menon *(Advocate-General)*: I second it.

Amendment put and carried

Clause 9 as amended, put and carried

Amendment No. 69, not moved

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: The amendment is "In the last sentence of clause 10 between the words "surrender" and "but" the words "after giving credit to the Muppattam, if any, received" shall be inserted and the words "if any" shall be deleted." It is only to make it clear.

Mr. M. Sivarama Menon *(Advocate-General)*: I second it.

Amendment put and carried

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Mr. President, Sir, I move Amendment No. 71.

"After clause 10 insert the following clauses.—

"11. *Verumpattamdar's right to a receipt.*—Every Verumpattamdar paying pattam shall be entitled to a receipt specifying.—

(*a*) a description of the holding in which it is paid.
(*b*) the date of payment,
(*c*) the amount paid,
(*d*) the period to which the amount relates,
(*e*) the arrears, if any, remaining due from the tenant after the said payment.

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12. *Burden of proof in the absence of particulars.*—In the absence of the particulars specified in clause (*e*) of section 11 the burden of proving that the verumpattamdar is bound to pay any arrears of pattam which had accrued due previous to the date of the receipt shall be on the person claiming such arrears.

13. *Procedure when there is failure to grant receipt.*—If the lessor refuses or neglects to grant a receipt as specified in section 11, the verumpattamdar shall be entitled to send, by money order, after deducting the charges for doing so.—

(*a*) the money if the pattam is payable in money,
(*b*) the money value of the pattam if it is payable in kind.

Such money value shall be computed with reference to the rate published in the Cochin Government Gazette for the date on which the value is remitted or if no such value is published for that date at the rate for the next previous date for which a rate is published.

Government shall cause to be published in the Cochin Government Gazette every month the price of paddy, cocoanut, arecanut, pepper and such other produce at each taluk head quarters by a Gazetted Officer."

Through this amendment what I seek is the insertion of 3 clauses as 11, 12 and 13 after clause 10 and renumbering of the other clauses. The purport of these new sections sought to be introduced is this. It is the experience of big tenants as well as small tenants not to have even a bit of paper in the shape of receipt for anything that may be put into the coffers of the landlord. This is the fate of the money paid by the tenant and he normally does not suffer.

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: We have got it in our Tenancy Act. We do not want to intend that he should not get a receipt. And there is a section here, section 14, which says—"Where there is any conflict or inconsistency between the provisions of this Act and the provisions of the Cochin Transfer of Property Act, XVII of 1111, or the Cochin Tenancy Act XV of 1113, the provisions of this Act shall prevail." There is section 39 in the Tenancy Act which deals with the passing of receipt. There is section 41 which says that the burden of proving that the tenant is bound to pay any arrears of rent, etc., is on the person claiming such arrears. Therefore, the amendment is unnecessary.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: It is better to be safer side to have the provision in the Act itself enjoining the jenmi to grant a receipt. There is no provision regarding receipt in this Bill. We are not going to suffer by having this in this Act also. I am not particular in having it if the Hon'ble Members think that it is unnecessary.

Mr. M. Sivarama Menon *(Advocate-General)*: We have not provided for value of improvements. We cannot include one and omit the other. If the House insists, we have no objection. Under the Tenancy Act, Government is now bound to publish the rates ; one under the Tenancy Act and one as per this Bill.

Mr. V. J. Mathai *(Planters)*: That may be deleted.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: The whole portion coming after clause(*b*) section 13, may be deleted.

Mr. T. P. Poulose *(Kanayannur)*: Either insert it as a whole, or don't insert it at all. Otherwise, there will be other complications.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : If the retention of the last clause will create duplication of work to the Government and if prejudicial consequences will not follow, I can omit.

Mr. M. Sivarama Menon *(Advocate-General)*: Absolutely no trouble.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : I am agreeable to delete that portion of the amendment.

Deputy President: Some Hon'ble Members say that if you delete that portion, there will be duplication and complications.

Mr. T. P. Poulose *(Kanayannur)*: Yes there will be some trouble. If you insert it, you must insert it as a whole. Or, don't insert it at all.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: If it is ordinarily published under the existing Tenancy Act in the notification, it may have to be stated that, those publications are utilised for considering the value of such articles not only for Tenancy Act purposes but for the Verumpattam Act purposes also. Control prices published are utilised for purchase and sale by

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private parties. I therefore, move that clauses 11, 12 and 13 be inserted in the Bill to be on the safer side.

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: It will create some difficulty.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: What is the use of blowing hot and cold with the same breath. Am I expected to play to the tunes of the Government?

Mr. V. J. Mathai *(Planters)*: I second Mr. Ezhuthassan's amendment.

Amendment put and lost

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Poll, Sir.

Ayes

1. Mrs. Joshua
2. Mr. V. J. Mathai
3. Mr. M. K. Devassy
4. Mr. K. R. Ramakrishnan
5. Mr. C. K. Nayar
6. Mr. C. V. Iyyu
7. Mr. P. Kumaran Ezhuthassan
8. Mr. M. Krishna Menon
9. Mr. K. Narayana Menon
10. Mr. K. S. Panikker
11. Mr. K. T. Achyutan

Noes

1. Mr. A. B. Salem
2. K. Ashtamoorthi Nambooripad
3. Mr. Ittiravi Nambooripad
4. Mr. T. P. Poulose
5. Mr. T. A. Ramachandra Ayyar
6. Mr. Govinda Pai
7. Mr. Subbarayan Chettiar
8. Mr. P. V. Raphael
9. Mr. V. K. Aravindaksha Menon
10. Rao Sahib I. N. Menon
11. Mr. A. Madhava Prabhu
12. Rama Varmha Tampuran
13. Mr. Parambi Lonappen
14. Mr. M. M. Paul
15. Rao Sahib Dr. T. Verghese
16. Mr. C. J. Mathew
17. Mr. M. Sivarama Menon
18. Mr. T. Narayana Menon
19. Khan Sahib Y. Mohamed Roshan Sahib Bahadur

Amendments Nos. 72, 73 and 74 not moved

Clauses 11 and 12 put and carried

Mr. C. V. Iyyu *(Kunnamkulam)*: I move for the insertion of clause 13 mentioned in amendment No. 75. "After Clause 12, insert the following clause 'Notwithstanding any contract to the contrary, express or implied whether entered into or after the coming into force of this Act, no verumpattamdar shall be liable to pay to his lessor anything more or anything less than what is payable under the provisions of this Act."

My reason is this, that pattam cannot be enhanced or lowered. Ingenius jenmies will somehow or other, either by love or by other means manage to get the poor tenant to pay more. This is only to prevent further encroachment on the tenant to get more. It is only a saving clause.

Mr. C. K. Nayar *(Nemmara)*: I second it.

Amendment put and carried

Mr. C. V. Iyyu *(Kunnamkulam)*: I move for the insertion of clause 19 mentioned in amendment No. 75. "Every lessee by which a lease is created and its counterpart shall contain (*a*) the name if any and description and extent of the holding (*b*) the Government Revenue, cesses and taxes, if any payable in respect of the holding (*c*) the amount of pattam payable in respect of the holding (*d*) the relation that any para or any other measure according to which the rent has to be paid bears to the standard measure prescribed by the Government.

Mr. K. Kunhirama Menon *(Cheruthuruthi)*: I second it.

Amendment put and carried

Mr. C. V. Iyyu *(Kunnamkulam)*: I move for the insertion of clause 20 mentioned in Amendment No. 75. "Stamp and Registration charges of any lease deed and for the counterpart of such lease shall be borne by the verumpattamdar and the lessor respectively.

Mr. K. Kunhirama Menon *(Cheruthuruthi)*: I second it.

Amendment put and carried

Clauses 13, 19 and 20 to be numbered as 13, 14 and 15 and to form part of the bill.

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Amendment, put and carried

Amendment No. 76

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I move amendment No. 77. In clause 13, delete the portion appearing after the figure " 1070 " and add as follows.—"The compensation awarded by Government shall be distributed as follows.—

(1) the land value will be distributed in the proportion of $\frac{7}{8}$ and $\frac{1}{8}$ between the jenmi and the verumpattamdar, or verumpattamdars as the case may be, entitled to the improvement.

Explanation.—Land value shall include the solatium amount granted by Government.

(2) Value of improvements shall be distributed in the proportion of $\frac{3}{4}$ and $\frac{1}{4}$ between the verumpattamdar or verumpattamdars entitled to the improvement and the jenmi ".

The object of the amendment is to work the equities between landlord and tenant as equities should be worked. That is the object which prompted me to send up the amendment. I am not going to claim for my amendment any perfection at all. It may have a dozen defects; it may have to be amended in the light of the discussion that may ensue if the Government is agreeable. I have placed through this amendment a suggestion for the consideration of this Hon'ble House and I believe that the clause in the amendment will have that sort of consideration of the House, both the Treasury Bench and non-official section. With these prefatory remarks, I beg to move my amendment.

Mr. A. V. Moothedan *(Chalakkudi):* I am sorry I must confess that I do not find my way to support this. It will not be to the benefit of the tenant. I shall give an illustration. In the Chalakkudi market, there are two cents of land. Sirkar want to acquire those two cents. There are buildings worth 2,000 rupees. According to the present law, for the value of the building, the jenmi has no right at all; the whole value goes to the tenant. According to Mr. Ezhuthassan the jenmi gets ¼. What is the return he gets ? ⅛ of the land, about Rs. 12 or Rs. 25 and he is losing Rs. 500.

Mr. T. P. Poulose *(Kanayannur):* Mr. Ezhuthassan probably refers to 50 per cent solatium. He has written a special explanation to sub-clause (1) that land value shall include solatium amount granted. There is no such explanation to sub-clause (2). So, as it is, even with regard to value of improvements, there will be solatium; this explanation will apply to that.

മിസ്റ്റർ വി. ജെ. മത്തായി: ഇതു് ആകപ്പാടെ കുഴപ്പമുള്ള ഒരു സംഗതിയാണു്. വളരെ ഗൌരവമുള്ളതുമാണു്.

Deputy President: If that is not accepted.

മിസ്റ്റർ വി. ജെ. മത്തായി: ഇപ്പോഴും ഗവർമ്മെണ്ടിന്റെ നില കാണുമ്പോൾ കുറെ കൂടി സംഭ്രമമാകുന്നു. ഇതേ നിലയിൽ വെറുംപാട്ടക്കുടിയാന്റെ കൈവശമിരിക്കുന്ന വസ്തു സർക്കാരിൽനിന്നെടുക്കുകയാണെങ്കിൽ അവർക്കു് കിട്ടേണ്ട സംഖ്യ വളരെ കുറഞ്ഞുപോകും.

മിസ്റ്റർ എ. മാധവപ്രഭ: ആറാഴ്ച കിട്ടുന്നില്ലെ ?

മിസ്റ്റർ വി. ജെ. മത്തായി: ആറാഴ്ച മുമ്പിലത്തെപ്പോലെ തന്നെ ഇപ്പോഴും കിട്ടും. കെട്ടിടങ്ങളുടെ കാര്യത്തിൽ വരുമ്പോൾ ഒരു പൈ പോലും കൂടിയാനു കിട്ടുവാനുള്ള മാർഗ്ഗമില്ല.

മിസ്റ്റർ എ. മാധവപ്രഭ: അതു വിട്ടുപോയതാണെന്നു തോന്നുന്നു.

മിസ്റ്റർ വി. ജെ. മത്തായി: അതെങ്ങിനെയെങ്കിലും ശരിയാക്കണമെന്നാണു് ഞാനും പറയുന്നതു്. കെട്ടിടത്തിന്റെ കാര്യം വിട്ടുപോയതായിരിക്കാം. എട്ടിലൊരുഭാഗം മാത്രമേ കൂടിയാനു് അവകാശം കിട്ടുന്നുള്ളൂ. നിലവിലുള്ള നിയമപ്രകാരം യാതൊരവകാശവും കൂടിയാനു് വസ്തുവിൽ കിട്ടുന്നില്ല. ഇന്നു കൂടിയാനു കിട്ടിക്കൊണ്ടിരിക്കുന്ന ഇണം മുഴുവനും

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കടിയാനതന്നെ കിട്ടണം. എന്നാൽ വിഷമം തീരും. ഈ ഭേദഗതികൊണ്ട് കുടിയാനു കുറച്ചെങ്കിലും അവകാശമുണ്ടായിരുന്നതുകൂടി ഇല്ലാതാകും.

ഡെപ്യൂട്ടി പ്രസിഡണ്ട്: അതു സമ്മതിച്ചുകഴിഞ്ഞിട്ടില്ലെ ?

മിസ്റ്റർ വി. ജെ. മത്തായി: അതും ഇല്ലാതാകുവാൻ പോകുന്നു. മുമ്പിലത്തെ നില മാറി കുടിയാനു് കുറെക്കൂടി ഭോഷത്തിനിടവരുന്നു. ഫ്രാ-ാംവകുപ്പ് അങ്ങിനെതന്നെ എടുത്തു കളഞ്ഞിരുന്നെങ്കിൽ അതിനിടയില്ല. അതുകൊണ്ടു് ആ വകുപ്പ് ഭേദഗതി ക്കാതെ വെക്കുകയാണു് നല്ലതു്.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Whatever the tenant is entitled to get, that will not be taken away.

Amendment put and carried

Mr. C. V. Iyyu *(Kunnamkulam):* Amendment No. 78. I withdraw.

Amendment No. 79

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I move that clause 14 (amended clause 17) may be amended as follows.—In clause 14 for the last four words, substitute the words " the Act most favourable to the tenant shall prevail ".

Mr. M. K. Devassy *(Adur):* I second it.

Mr. M. Sivarama Menon *(Advocate-General):* You are repealing the Verumpattam Bill.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I oppose. After going through the whole thing, either you take the whole thing as it is, or reject the whole thing. We have already spent five days over this measure, and what is the good of this ?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Mr. President, Sir, the proposition is only this ; that in the clause as it stands, it is said that when there is a conflict between the provisions of the Transfer of Property Act, Tenancy Act and this Act, that we hope will be passed into Law very soon, the provisions of this Act shall prevail. What I want through this amendment is that the provisions of that Act amongst these three *which is most favourable to the tenant shall prevail.* I wonder whether there will be anybody in this House who has come with an unprejudiced mind to oppose this most salutory amendment which is going to give the greatest benefit to the tenantry in whose cause our good Government has been pleased to bring this, may I say, revolutionary Bill. I wonder from which corner of this House opposition to this salutory amendment will come. I am sure it is not going to come from this side, not from the non-official side at any rate. I am afraid that a picture will be seen that for this amendment in favour of the tenant, the only opposition came from that corner which was magnanimous enough to come forward with a revolutionary Bill to give relief to the tenantry. Will that sorrowful picture be painted when we are at the close of the debate, is the question that I put the Treasury Benches. The Treasury Bench which found its way to remain neutral upon my previous amendment, could it not find its way, I ask, and ask seriously and earnestly and humbly, whether they could not remain neutral, the Treasury Bench whose intentions are laudable and who have come here with a revolutionary measure as advised by the Government. I am quoting your own words, will you do it is the question. I hope you shall not ; I pray you may not. I am done.

Amendment, put and lost

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Poll, Sir.

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Ayes	Noes
1. Mrs. Joshua	1. Mr. A. B. Salem
2. Mr. A. V. Moothedan	2. Mr. V. N. Damodaran Nambiyar
3. Mr. V. J. Mathai	3. Mr. V. K. Bhaskara Menon
4. Mr. M. K. Devassy	4. Mr. Ittiravi Nambooripad
5. Mr. K. R. Ramakrishnan	5. Mr. Ashtamoorthi Nambooripad
6. Mr. Kunjirama Menon	6. Mr. T. P. Poulose
7. Mr. C. K. Nayar	7. Mr. T. A. Ramachandra Ayyar
8. Mr. C. V. Iyyu	8. Mr. N. Govinda Pai
9. Mr. M. Krishna Menon	9. Mr. V. K. Kutty
10. Mr. P. Kumaran Ezhuthassan	10. Rama Varmha Tampuran
11. Mr. K. Narayana Menon	11. Mr. P. V. Raphael
12. Mr. A. T. Kunjipalu	12. Rao Sahib I. N. Menon
13. Mr. K. S. Panicker	13. Mr. M. Sivarama Menon
14. Mr. K. M. Ibrahim	14. Mr. A. Madhava Prabhu
15. Mr. K. T. Achyutan	15. Mr. T. Narayana Menon
16. Mr. Peter	16. Mr. C. J. Mathew
17. Mr. K. R. Achyutan	17. Mr. M. M. Paul
18. Mr. P. P. Devassy	18. Mr. Parambi Lonappen
19. Mr. C. K. S. Moni	19. Khan Sahib Y. Muhammad Roshan Sahib Bahadur
	20. Rao Sahib Dr. T. Verghese
	21. Mr. V. K. Aravindaksha Menon

Clause 17, put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Amendment 80. I move the following amendment.

For section 25 of the Cochin Co-operative Land Mortgage Bank Act, XXXV of 1111, the following shall be substituted, namely, Bank's right to improvements effected by lessee— "The improvements if any, made subsequent to the date of the mortgage by a lessee of property mortgaged to the bank shall be treated as accession to the mortgaged property and shall be available to the bank for the realisation of the mortgage money". If we do not put it here, the result will be that leases granted under section 25 of the Cochin Land Mortgage Bank Act will be invalid. There it is stated that leases granted should be restricted to 5 years. Here we give permanency to each and every lease. By this, instead of the leases becoming invalid, permanency is given to them. That will be against the provisions of the Land Mortgage Bank Act. So that section has to be amended. When we take away that section from the Land Mortgage Bank Act and then put some other section, the leases will not be invalid; they will be valid. They will be made permanent tenures. In addition to this, the mortgagor will get the benefit of the accession to property. We legalise what otherwise will be invalidated. It is nothing else.

Mr. M. K. Devassy *(Adur):* Will you read section 25?

Mr. A. V. Moothedan *(Chalakkudi):* It reads as follows.—"The duration of any lease granted by a mortgagor of property mortgaged to the Bank after the execution of the mortgage shall, in no case, exceed five years (but improvements, if any, made by the lessee will be treated as accession to the mortgaged property will be available to the Bank for realisation of the mortgage amounts."

Mr. M. Sivarama Menon *(Advocate-General):* Under the Land Mortgage Bank Act, suppose a party takes a loan from the Bank and executes a document. Then the debtor if he wants to lease out the property, he can do it only for five years. We want to take away that restriction consistently with this Bill.

Mr. M. K. Devassy *(Adur):* My doubt is with regard to value of improvements. Is there any provision in the Co-operative Land Mortgage Bank Act which says he does not get the right?

Mr. M. Sivarama Menon *(Advocate-General):* Yes. The duration of the lease after the execution of the mortgage shall in no case exceed five years.

Mr. T. P. Poulose *(Kanayannur):* For the present purposes, one Act is sufficient.

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Mr. M. Sivarama Menon *(Advocate-General):* We are only taking away the restricted right of the debtor to lease the property.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* The Land Mortgage Bank Act has particularly put this clause of 'more than five years' in it. What was it intended for? It was intended to enable the Bank to get possession of the property. We are not going to disturb the possession of the tenant by the amendment. At the same time, the rights of the Bank should not be prejudiced. Hence the amendment. The debtor will be at liberty to lease the property.

Mr. A. V. Moothedan *(Chalakkudi):* I support the motion. The Board of Directors think by enacting this new law, the right of the Bank for realising the amount will be made more difficult. The House has guaranteed debentures to the extent of twenty lakhs of rupees. If they are not able to recover the amount, our resources will be affected. It is only reasonable that some safeguards should be introduced so far as the properties mortgaged to the Land Mortgage Bank are concerned. Regarding the drafting, I do not know if it is correct. There are two Bills now. You cannot amend a law arbitrarily. My suggestion is this. On the merit there is no difference at all.

Mr. M. Sivarama Menon *(Advocate-General):* We have considered the objections raised by the Bank and we are giving them the right rightly due to them. Anybody who has got the lease of the property, must get the benefit of permanency.

Mr. V. J. Mathai *(Planters):* What are rules and drafting for? For the sake of man. We want a Verumpattamdar Act and we want a Land Mortgage Bank also to continue well. It is foreign to conceptions of drafting. Let us somehow or other be done with it.

Mr. A. V. Moothedan *(Chalakkudi):* When the Bill becomes law, what will be the number of the section?

Mr. M. Sivarama Menon *(Advocate-General):* This will be the last number.

Amendment, put and carried

Clause 17 put and carried

Clause 1 put and carried

Title and Preamble put and carried

Deputy President: The third reading of the Bill will be taken at 5. The House is adjourned till five.

The House rose at 4-30 p.m. and reassembled at 5-30 p.m. with the Hon'ble the President A. F. W. Dixon Esq., C.I.E., I.C.S., in the Chair.

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I beg to move that the Bill as amended may be taken up for final consideration.

In clause 2 (d) for the words "a varam or a pankupattam tenant", substitute the words "a person who cultivates land under a varam or pankupattam agreement". The words used in the original bill is 'tenant'. It is to make it more correct that the wording is changed.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Clause 2(d) as amended put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I beg to move that for clause 3 (f) the following may be substituted.—

"(*f*) leases of land situate within the limits of the Municipalities constituted under the Cochin Municipal Act, XVIII of 1113:

Provided that the restriction contained in clause (*f*) shall not apply to—

(*i*) lands used for the cultivation of paddy within the limits of Municipalities and

(*ii*) lands held in Tharikuthu right within the Municipal areas in the Chittur Taluk.

This provision is re-drafted to bring it into better form.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I move that for sub-clause (1) (2) and (3) of clause 5 the following shall be substituted.—

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"5(1) Subject to sub-section (2) and to any remission to which a verumpattamdar may be entitled under the provisions of this Act, the pattam payable by him in respect of his holding under the contract of tenancy shall not be enhanced or reduced.

(2) Where cocoanut is the major produce of a garden land and the pattam fixed therefor under the contract of tenancy is payable in money, it shall be obligatory on the part of the verumpattamdar to give and the lessor to accept the pattam accruing due after the commencement of this Act in kind computed on the basis of the market value of cocoanuts prevailing on the date of the contract of tenancy or the money value thereof computed at the market rate prevailing on the date on which such pattam accrues due.

(3) The market rate for cocoanuts for the purpose of sub-section (2) shall be the market rates published from time to time under the provisions of the Cochin Tenancy Acts II of 1090 and XV of 1113 and for any period for which no such rates are published, such rates as Government may by notification in the Cochin Government Gazette specify in this behalf."

We have added the words "it shall be obligatory on the part of the verumpattamdar to give and the lessor to accept" as was required by some of the Hon'ble Members.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I move that in sub-clause 1 (c) of clause (8) the word "entire" be deleted.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* I move that in clause 13 omit the words "weather entered into before or after the coming into force of this Act, and also omit the words 'anything else' in the same clause.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I move in clause 14 for the words "every lease deed by which a lease is created and its counterpart substitute the words "every verumpattam lease, if reduced to writing and its counterpart, if any".

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

Clause as amended put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I move in clause 15 after the words " counterpart " insert the words " if any '.

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

Clause as amended put and carried

Mr. A. Madhava Prabhu *(Diwan Peishkar):* Sir, I move that for clause 16 the following shall be substituted :—

"16. Where land comprised in the holding of a verumpattamdar is acquired under the provisions of the Cochin Land Acquisition Act, II of 1070, the land value inclusive of the 15 per cent, thereon awarded under sub-section (2) of section 22 of the said Act shall be apportioned in the proportion of seven-eighths and one-eighth between the jenmi and the Verumpattomdar respectively."

Mr. M. Sivarama Menon *(Advocate-General):* I second it.

Amendment put and carried

The whole Bill as amended put and carried

Mr. V. J. Mathai *(Planters):* Mr. President, Sir, in accordance to the express desire of the Leader of the House I may say a few words on this momentous occasion. An eminent writer has said that in England there were more revolutions than in any other part of the world but always with the deletion of the letter " R " from that word England has progressed by evolutions more progressive than evolutions. Let that always be said about the Cochin State. I can boldly

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assert that so far as our State is concerned Cochin has progressed not through revolutions but always by revolutions without the letter "R".

So far as this Bill is concerned the tenantry of the Cochin State knows, Sir, to whom it owes its second magna carta. The tenants of Cochin owe its present position in the body economic of the State to that Great Maharaja of August Memory who abdicated the Musnad and I may add in this connection the name of His Highness the present Maharaja as the grantor of the second magna carta of the tenants. It differs from the English Magna Carta only in this respect that there are no barons and no swords to extract it from an unwilling sovereign for it came from a willing soverign. I should say that the gratitude of the tenantry of the Cochin State, nay, of the people as a whole for having solved the knotty problem of the verumpattamdars is due to the source of all the laws in the State nor should we forget the service of the Ex-Diwan, Sir, Shanmukham Chetty, who in his time has helped the cause of the verumpattam tenants as far as possible. At the same time I should not forget the very valuable services of the present Diwan to whose impartiality and to whose sympathy also we owe this Bill nor should we neglect to remember the assiduous efforts and sympathetic understanding of the whole position by our Advocate-General whose ability and commonsense I have admired for the past 16 or 18 years. I should at the same time bestow a word of compliment on the Diwan Peishkar whose experience and legal acumen have also helped the Government in this respect nor should I fail to mention the services of the Legal Remembrancer who was working behind the screen.

I should also say that the Government should never take it that every provision of the Bill is welcomed by the tenants and accepted by them nor do I say that the jenmies as a whole do agree to every provision of the Bill. But we take it as a compromise and a good compromise and if on a future occasion, on account of hardship felt by the working of the provisions of this Bill I believe that the spirit in which the whole Bill has been moved will actuate the Government to move or accept the necessary amendments. In that faith and in that hope and with the feeling that it has advanced the condition of the tenantry and the welfare of the State as a whole I resume my seat.

Mr. M. K. Devassy *(Adur):* Sir, Legislative Council, Sir, is a House of criticism and the role it has to play at times is very unpleasant and taxing, as also that of the persons under the knife of critics. But as we criticise from the floor of this House the actions of the Government without fear or favour, courting unpleasantness and creating unpleasantness, it has been, Sir, the tradition of this House to applaud where applause is due and to condemn where condemnation is due. It is only in pursuance of this salutary principle of the laudable criticism that I wish to extend my congratulations to the Government for sponsoring this progressive measure. To my mind, Sir, this measure is a very enlightened and progressive measure, not only from the standpoint of the tenants, but from the standpoint of jenmies as well I say so, because, if there is a criticism against this Bill that it is an exproprietary measure, I would say that it is a benevolent expropriation, inasmuch as it assures to the landlord his due and that without delay. What the landlords of the State wanted always is that they should get the interest in the investment *viz.*,—rent in time. This Bill goes cent per cent to that extent and serves the purpose of the landlord. On the part of the tenant, Sir, this Bill has more a psychological role to play. I say psychological, because it is the consciousness in the tenant that the land is his, that he is improving the land for himself, that he is going to play a greater part in the reconstruction of Cochin in future that this Bill has attempted to create that consciousness in him. Although, Sir, the idea of permanency of tenure has been already recognised by the Malabar Tenancy Act, I would go to the extent of saying that in many respects, this Bill is a distinct improvement upon the Malabar Tenancy Act. The one important provision which is a distinct improvement is that as a condition precedent to the grant of permanency of tenure, this Bill does not insist upon furnishing security by the tenant which is practically impossible today on the part of most of the tenants. At the same time for the present, one section which was very keenly debated upon in this House, namely, the conversion of money pattam into kind will have, for some years, the effect of enhancing the pattam computed in point of money and it may create an impression in the tenants for the present, that the legislation has gone against them. But it is a matter for us to study by experience, and experience may prove either the wisdom of the present provision or the folly. And I leave it to the Government themselves to amend the provision according to experience. At the same time, I would appeal to the tenants of this country to realise the implications of this great boon granted by the sovereign and to improve their condition as a result of the legislation for, if legislation has a role to play in the country, it is the realisation on the

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part of the people that what is expected of them is to work in the spirit of the legislation to improve themselves and the State.

Sir, this idea of permanency of tenure has been engaging the attention of the non-officials as well as the Government for a long time. By misfortune, by accidents, it so happened that it could not take proper shape. There was a time even in the history of the present Council when the non-official members having introduced a Tenancy Bill, withdrew it on the assurance given by the Government that Government would introduce a Bill, and after Government had introduced the Bill, it had the misfortune of not seeing the third reading. As a matter of fact those who were interested in the passing of this Bill were almost in a state of complete despondency and thinking that a principle which was almost conceded by the Government is not going to see the light of day at all. It is really gratifying to note that we have been raised from that state of despondency to hopes of progressive legislation. I am sure the House will agree with me in thinking that our benevolent Maharaja who has been primarily responsible for sponsoring this Bill in this form deserve our heartfelt gratitude and it is our hope that this spirit of enlightened administration will be continued. I will also be failing in my duty if I did not express a word in regard to our present Diwan. The Diwan, Sir, has, in many respects an important part to play in tendering his advice to His Highness. In fact there are many situations, many problems in which His Highness and the Diwan can supplement each other. It may be that ideas start from His Highness and it would be the role of the Diwan to supplement those ideas and to see that those ideas are implemented properly. It may be that ideas start from the Diwan and it would be for His Highness to supplement those ideas. It is gratifying for us to learn that so far as this legislation is concerned, it has received support from the Diwan, inasmuch as the Diwan has been willing to extend his hearty co-operation for the speedy implementing of the principles contained in the Bill. And, I would also associate myself with the sentiments expressed by my Hon'ble Friend the Member for Planters with regard to the Advocate-General, and the Diwan Peishkar who had been of considerable advantage in the speedy passage of the Bill and whose experience have been of great service in the discussion.

Sir, Hindus says that rain is a good omen. It so happened that some of us on behalf of the tenants were raising our voice to the top and those of you there who could not agree with us were doing the same thing; but after all the heat there came the cool shower which I am sure is a good forerunner of many more good things to come. It is my fervent hope that this spirit of enlightenment and progress expressed in the sponsoring of the Bill will be evinced in granting responsible Government for which we are aspiring.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)* : Mr. President, Sir, it is to discharge a very pleasant duty that I get up here. I can boldly-say that this day may be considered as the red letter day in the annals of Cochin. It was during the days of the late lamented Highness the abdicated Maharaja that we had the first agrarian legislation in the State. Those of us who have cared to study can know the processes through which it had to pass and the difficulties His Highness had to surmount in giving us Act II of 1090. I have heard it said that, at that time, our present benevolent Maharaja wanted, what fell to his happy lot to grant us today, should also be done along with Act II of 1090. I have also heard it said that His Highness the late abdicated Maharaja has been pleased to say—then "I leave it to be done by you, the words used were I am told "ഞാൻ അത് മിടുക്കനെ ഏൽപിക്കുന്നു." Our Benevolent Maharaja popularly known is as "മിടുക്കൻ തമ്പുരാൻ" has fulfilled the promise or rather hope that the late abdicated Maharaja had in his mind with regard to his successor. Therefore, it is, Sir, that I state that this is the red letter day in the annals of Cochin. It has to be said Sir, that whoever is responsible for this piece of legislation, Cochin, as it does in many other things, has by this benevolent legislation led India in the field of agrarian legislation. No other country has passed such a beneficent piece of legislation, holding the balance very very even between the two parties, although the jenmies may have just now some grievance that this is an exproprietory measure. Just as my Hon'ble Friend for Adur said that really the actual working of this legislation will show that this Bill is not exproprietory at all and it is all to the benefit both of the tenant and the landlord. Therefore, it is our pleasant duty, Sir, to extend our thankfulness, our genuine feelings of gratitude to the source from which this legislation has emanated and as stated by my friend the Hon'ble Member for Adur as well as the Hon'ble Member for Planters, your part, Sir, is something which we can never forget. To the Treasury Benches, especially to the two Hon'ble Members the Diwan Peishkar and the vigilant Advocate-General and the indefatigable Legal Remembrancer I must say that these 4 days which have happily come to a close with the

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showers which so far as the tenants are concerned, is a happy augury, we have been giving them trouble. They have been put to strenuous work by our suggestions, by our interpellations, by our criticisms. But it is happy to note that these gentlemen have all accepted the troubles that we have given them with good grace and they have been helpful. So, our thanks are due to them too. Therefore, I repeat, Sir, this is a day in which the tenantry of Cochin in which category 95 per cent of our population is included, can congratulate themselves; congratulate themselves because they got the lands they cultivate as theirs which hitherto they had been feeling were not theirs. They are sure, Sir, to improve them from today and the happiness of the State will go ahead. We certainly can foresee the days of prosperity in the State, prosperity for the tenant and prosperity for the jenmi. Once more extending my thanks to the source from which it has come, I resume my seat.

*Mr. M. Sivarama Menon *(Advocate-General)*: On behalf of the Treasury Bench, I feel a bit of diffidence in replying to the several observations and compliments made on the floor of this House just now, because I have never yet felt that the Treasury Bench is a separate compartment in this House. I have always felt that I am also a member equally entitled to look after the interests of the people in accordance with the mandates that are issued to me by the authorities concerned and any tribute that has been paid in this respect must certainly go to that Government which has issued orders to the Treasury Bench to frame a Bill in a particular manner. Our responsibility begins and stops with the tendering of advice which we ought to give in obedience to the position that we occupy. It is only in that way that we can be said to have contributed towards this Bill which has passed its third reading just now. Therefore, whatever may be the nature of the work that we have done, it is on account of a feeling of responsibility and faithful adherence to duty. We do not wish and we do not deserve any special tribute at your hands.

The firm grip of the proceedings of the House by the President as well as by the Deputy President, enabled us to pass through this Bill at least today. The business of the House has been controlled by the Hon'ble President as well as the Deputy President in a very able way. So far as the President is concerned, certain speeches that were in Malayalam could not be properly understood by him but he was getting the points cleared by getting them translated by the Secretary to the Council. At the time when the Deputy President was in the Chair he took great pains to see that this Bill has a proper passage within the limited time at our disposal in the hope that this Bill is going to be for the benefit of the landlord and the tenant as a whole. I must express my grateful thanks for the very able criticisms made with regard to every important provision in this Bill and I do not know as a matter of fact what would really have been the fate of some of the clauses in this Bill but for the suggestions thrown out in the valuable amendments tabled by the Hon'ble members of this House, and by the intelligent arguments raised by the other Hon'ble members when the amendments were taken up for consideration. We must all have the satisfaction that we have a Bill vouchsafing contentment and happiness to both classes of His Highness' subjects, jenmies and tenants alike and that is the only feeling that has actuated the Government in the stand that they have taken in matters connected witch this Verumpattamdars' Bill.

Lastly, I have to thank you one and all of the non-official members who have taken part in this dicussion for your hearty co-operation and sincere criticisms which have enabled us to grow wiser in certain respects. I say that the level of the debate has been supremely high and you have taken a keen interest in the uplift of the tenant class. I believe the interests of the tenants as well as the landlords are completely safe in the hands of this House. If there are imperfections, they may be pointed out later on and rectified by means of suitable amendments. Courts of law can administer only what is given to them by this House. If by our united action we have still given room for imperfections which lead to failure of justice, then I am sure I shall be justified in bringing forward suitable amendments for the rectification of this mistake here and another small mistake there. In that you are all in my company. We are all united in the firm hope that this far-reaching measure will go down to posterity as a piece of legislation which will enhance the economic position of the landlord as well as the tenant.

Mr. A. Madhava Prabhu *(Diwan Peishkar)*: Sir, I wish to say one word as the mover of this Bill. I am thankful to Providence for having given me the good fortune of being the Mover of this Bill and seen the end of it through this Council. I should think that it is the good

*Speech not corrected by the Hon'ble Member.

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fortune of the House that this House should be a party for bringing on the statute book a measure of such great importance the like of which the whole of India, any other party of India, has never seen. In bringing this legislation before the House the Government was actuated by the most important motive which every Government ought to have in the mind and that is the welfare of the majority of its subjects. As everybody knows, India is an agricultural country, and Cochin, most of it, is really nothing but an agricultural country. We have not got any industry with the name. It is mostly an agricultural country. The prosperity of a country like this depends upon the well-being of the people and the way in which that well-being is fostered by the Government. The Government thought that this was the most opportune time for bringing in a piece of legislation like this.

Secondly when moving a legislation of this type which has in it the idea at any rate of one section of the people being deprived of what they consider as their right, and another section getting it, the Government had always kept the balance by which what was regarded as having been taken away was amply compensated by what the other side was made to give in return. Our position was always to see that neither the one nor the other lost or gained to the detriment of the other. I thank the House for having given a patient and kind consideration to the view which we put forward from the Treasury Bench.

Mr. President: I have to thank the Hon'ble Members for the war in which they have dealt with this Bill. We have listened to several able speeches and I do not propose to detain you long because I feel that a beneficial measure of this type requires no speech of mine to commend it. It will speak for itself. I would, however, like to congratulate the Hon'ble Members very heartly for passing this measure which should bring so much benefit to those numerous cultivators in the State who form the very back-bone of the society and on whom we depend for life itself. I feel this time of scarcity is a particularly appropriate moment at which to take up a measure of this kind because this is the time at which we realise more than at any other the great importance of having a contented, prosperous and hard working peasantry which should be able to produce the utmost that possibly could be produced from the land. I do sincerely hope that as a result of this measure we will have contentment and prosperity and if I may say so an added incentive for work among those many tillers of the soil who often feel that they work so hard and get so little in return and have not they possessed great boon, the sense of security. I would also like to congratulate the House on the very thorough manner in which they have examined the provisions of this Bill and on the way in which they have dealt with it during the last few strenuous days. I would also like to congratulate then on the good humour which they have displayed. Mr. Devassy made some reference to bitter criticisms. During my short period of association with this Council I have always found that criticism has been most kind and considerate and so far as Government are concerned I think we must congratulate ourselves on the great co-operation we have received in connection with this Bill and in connection with many other matters which we have had to deal with in these very difficult times, and the kind consideration we have received from all parts of the House.

As you know His Highness the Maharaja has been taking a very great personal interest in this Bill and that is not to be wondered at, because as Hon'ble Members know the great desire of His Highness has been to ensure the prosperity of all of his subjects and more especially the prosperity and contentment of the poorer sections *(Hear, hear)*. I venture to suggest that when the history of His Highness' rule in this State comes to be written perhaps pride of place may be given to this measure which we have been considering during the last few days. People will realise the great personal interest that was taken in this measure by His Highness himself and that it was on his initiative that many of the provisions found in the measure were taken up and considered. So I feel that above all else His Highness will come to be known by the title of "THE FRIEND OF THE POOR". *(Applause, long and continued)*.

Now, we will adjourn sine die.

The House was adjourned sine die at 6-10 p.m.

N. S. RADHAKRISHNA SARMA
Secretary to the Council

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